

SIXTY-EIGHTH DAY
(Monday, May 16, 1983)

The Senate met at 11:00 o'clock a.m., pursuant to adjournment and was called to order by President Pro Tempore Grant Jones.

The roll was called and the following Senators were present: Blake, Brooks, Brown, Caperton, Doggett, Edwards, Farabee, Glasgow, Harris, Henderson, Howard, Jones, Kothmann, Leedom, Lyon, Mauzy, McFarland, Montford, Parker, Parmer, Santiesteban, Sarpalius, Sharp, Sims, Traeger, Truan, Uribe, Vale, Washington, Whitmire, Williams.

A quorum was announced present.

Senator Jones announced the invocation this morning would be dedicated to Mr. Odis Havis, operator of the Capitol Coffee Shop, who is terminally ill from cancer and in Seton Hospital.

The Reverend Ed Wilder, Trinity United Methodist Church, Austin, offered the invocation as follows:

Lord, as we gather here this morning, hearing the news of our brother who's in the hospital, makes us mindful that regardless of our best laid out plans there are things that happen that we don't always anticipate. I pray, Lord, that you'd be especially with him, with his family, with all those who love and care for him...that Your strong arm might strengthen him in the days ahead and that You would be with him in special way each moment.

And now, Lord, I recognize that it's another week, that there are more bills clamoring to be heard than can be or even ought to be. I ask that You would grant these Senators and their staffs the wisdom to separate the more important from the less important.

Being mindful of budget issues and of some very ticklish issues that need to be decided, I ask, Lord, that where possible the decisions for the good of the state would also be pleasing to all the local constituents and where that is not possible, I ask that You protect and strengthen these people to do what is right in the midst of the various pressures that are brought to bear.

When all of these men were elected they had visions and ideals, but visions grow dim through endless days of routine work and ideals become bent and broken in the crush of political realities. Lord, I ask that You would daily refresh the visions and nurture the ideals of these people and of all of us, that we all might approach each day with a joyful sense of calling.

Guide and direct us, that everything we do might be pleasing in Your sight and the best that is possible for all of our people, Amen.

On motion of Senator Mauzy and by unanimous consent, the reading of the Journal of the proceedings of Thursday, May 12, 1983, was dispensed with and the Journal was approved.

(President in Chair)

CO-AUTHOR SENATE BILL 1380

On motion of Senator Parmer and by unanimous consent, Senator Caperton will be shown as Co-author of S.B. 1380.

REPORTS OF STANDING COMMITTEES

Senator Uribe, Vice Chairman, submitted the following report for the Committee on Health and Human Resources:

H.C.R. 246

H.B. 2437

Senator Harris submitted the following report for the Committee on Economic Development:

H.B. 1778

H.B. 79

H.B. 867

H.B. 1602

H.B. 1601

S.B. 1134

S.B. 736

C.S.H.B. 1125 (Read first time)

H.B. 296

H.B. 208

Senator Traeger submitted the following report for the Committee on Intergovernmental Relations:

H.J.R. 91

H.B. 2307

H.B. 1475

S.B. 1388

S.B. 504

S.B. 1318

S.B. 1237

H.B. 2313

C.S.S.B. 945 (Read first time)

C.S.S.B. 1377 (Read first time)

C.S.S.B. 631 (Read first time)

SENATE BILLS AND RESOLUTIONS ON FIRST READING

On motion of Senator Mauzy and by unanimous consent, the following bills and resolutions were introduced, read first time and referred to the Committee indicated:

S.R. 612 by Washington

Administration

Urging the Texas Historical Commission to recommend Houston's fourth ward for listing in the National Register of Historic Places.

S.R. 615 by Sims

Natural Resources

Memorializing Congress not to repeal or amend the Economic Recovery Act of 1981.

S.C.R. 113 by Uribe

Administration

Urging the Houston Metropolitan Transit Authority to purchase buses manufactured in Texas.

S.C.R. 114 by Truan

Administration

Creating a joint interim committee to study the problems and conditions faced by runaway and homeless youths in Texas.

S.C.R. 115 by Santiesteban Administration
Granting L. Moody Bennett permission to sue the State.

S.C.R. 116 by Brooks Administration
Granting Mitchell Development Corporation permission to sue the State.

S.B. 1413 by Montford Jurisprudence
Relating to the punishment, sentencing, and availability of parole or mandatory supervision for a person convicted of a capital offense.

S.B. 1416 by Truan Natural Resources
Relating to the theft of certain equipment, resources, and products from commercial or sports fishing boats or from water; providing penalties.

S.B. 1417 by Santiesteban Health and Human Resources
Relating to the slaughter of domestic rabbits and the sale of rabbit meat in Texas.

S.B. 1418 by Santiesteban Intergovernmental Relations
Relating to the authority of a county historical commission.

S.B. 1419 by Jones State Affairs
Relating to the continuation of state agencies.

S.B. 1420 by Jones Education
Relating to funds for administration of the Teacher Retirement System of Texas.

S.B. 1421 by Truan Intergovernmental Relations
Relating to special judges for the county courts at law of Nueces County.

S.B. 1422 by Truan Intergovernmental Relations
Relating to the creation of the County Court at Law No. 1 of San Patricio County.

HOUSE BILLS AND RESOLUTIONS ON FIRST READING

The following bills and resolutions received from the House were read the first time and referred to the Committee indicated:

H.J.R. 70, To Committee on Jurisprudence.

H.J.R. 73, To Committee on State Affairs.

H.J.R. 86, To Committee on Economic Development.

H.B. 33, To Committee on Jurisprudence.

H.B. 58, To Committee on Jurisprudence.

H.B. 128, To Committee on Jurisprudence.

H.B. 160, To Committee on State Affairs.

H.B. 287, To Committee on State Affairs.

H.B. 299, To Committee on Jurisprudence.

H.B. 444, To Committee on State Affairs.

H.B. 570, To Committee on Intergovernmental Relations.

H.B. 590, To Committee on Education.

H.B. 645, To Committee on Finance.

H.B. 733, To Committee on Education.

H.B. 755, To Committee on Intergovernmental Relations.

H.B. 773, To Committee on Intergovernmental Relations.

H.B. 790, To Committee on Intergovernmental Relations.

H.B. 796, To Committee on Health and Human Resources.

H.B. 805, To Committee on Jurisprudence.

H.B. 828, To Committee on Intergovernmental Relations.

H.B. 831, To Committee on Education.

H.B. 888, To Committee on Jurisprudence.

H.B. 896, To Committee on State Affairs.

H.B. 1038, To Committee on State Affairs.
H.B. 1112, To Committee on Intergovernmental Relations.
H.B. 1157, To Committee on Intergovernmental Relations.
H.B. 1277, To Committee on Natural Resources.
H.B. 1310, To Committee on State Affairs.
H.B. 1480, To Committee on Health and Human Resources.
H.B. 1518, To Committee on Intergovernmental Relations.
H.B. 1538, To Committee on Education.
H.B. 1580, To Committee on Finance.
H.B. 1611, To Committee on Jurisprudence.
H.B. 1669, To Committee on Intergovernmental Relations.
H.B. 1819, To Committee on Jurisprudence.
H.B. 1985, To Committee on Health and Human Resources.
H.B. 2061, To Committee on Natural Resources.
H.B. 2083, To Committee on Natural Resources.
H.B. 2102, To Committee on Education.
H.B. 2118, To Committee on Economic Development.
H.B. 2153, To Committee on Intergovernmental Relations.
H.B. 2224, To Committee on Jurisprudence.
H.B. 2297, To Committee on Intergovernmental Relations.
H.B. 2333, To Committee on Jurisprudence.
H.B. 2334, To Committee on Jurisprudence.
H.B. 2352, To Committee on Jurisprudence.

SENATE BILL 151 WITH HOUSE AMENDMENT

Senator Glasgow called S.B. 151 from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Floor Amendment No. 1 - C. Evans

Amend S.B. 151 as follows:

On page 2, line 6, insert after the period:

"The citizen member of the Board may not be an officer, employee, or paid consultant of a trade association in the banking industry and may not be related within the second degree by affinity or consanguinity to a person who is an officer, employee, or paid consultant of a trade association in the banking industry."

The amendment was read.

Senator Glasgow moved that the Senate do not concur in the House amendment, but that a Conference Committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The President asked if there were any motions to instruct the Conference Committee on S.B. 151 before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Glasgow, Chairman; Jones, Harris, McFarland and Henderson.

GUEST PRESENTED

The President introduced Congressman Bill Patman, former Member of the Senate.

The Senate welcomed Congressman Patman as a guest for the day.

BILLS AND RESOLUTIONS SIGNED

The President announced the signing in the presence of the Senate, after the caption had been read, the following enrolled bills and resolutions:

S.C.R. 111
S.C.R. 112
S.B. 98
S.B. 355
S.B. 623
S.B. 682
S.B. 1112
S.B. 384 (Again signed)
H.B. 593

SENATE RESOLUTION 599 ON SECOND READING

Senator Mauzy asked unanimous consent to suspend the regular order of business to take up for consideration at this time:

S.R. 599, Directing the Attorney General of Texas to take certain action relating to the case of Terrazas vs. Clements, now in United States District Court.

There was objection.

Senator Mauzy then moved to suspend the regular order of business and take up **S.R. 599** for consideration at this time.

The motion prevailed by the following vote: Yeas 24, Nays 6.

Yeas: Blake, Brooks, Caperton, Doggett, Edwards, Farabee, Glasgow, Howard, Jones, Kothmann, Lyon, Mauzy, Montford, Parker, Parmer, Santiesteban, Sarpalius, Sharp, Traeger, Truan, Uribe, Vale, Whitmire, Williams.

Nays: Brown, Harris, Henderson, Leedom, McFarland, Sims.

Absent: Washington.

The resolution was read second time and was adopted by the following vote: Yeas 24, Nays 6. (Same as previous roll call)

COMMITTEE SUBSTITUTE SENATE BILL 1355 ON SECOND READING

Senator Jones asked unanimous consent to suspend the regular order of business to take up for consideration at this time:

C.S.S.B. 1355, Relating to the creation of a public authority to issue bonds for certain state building projects and providing for an appropriation.

There was objection.

Senator Jones then moved to suspend the regular order of business and take up **C.S.S.B. 1355** for consideration at this time.

The motion prevailed by the following vote: Yeas 27, Nays 3.

Yeas: Blake, Brooks, Brown, Caperton, Edwards, Farabee, Glasgow, Harris, Henderson, Howard, Jones, Kothmann, Leedom, Mauzy, McFarland, Montford,

Parker, Parmer, Santiesteban, Sarpalius, Sharp, Sims, Traeger, Truan, Uribe, Whitmire, Williams.

Nays: Doggett, Lyon, Vale.

Absent: Washington.

The bill was read second time.

Senator Jones offered the following amendment to the bill:

Floor Amendment No. 1

Amend Section 12 of C.S.S.B. 1355 by adding a new Subsection (d) and a new Subsection (e) between lines 20 and 21 on page two, to read as follows:

(d) All lease contracts entered into under this act shall be subject to the appropriation by the legislature of funds necessary to cover the provisions of the lease.

(e) The board may lease space in projects constructed under this act if the space cannot be leased to the State Purchasing and General Services Commission or other state agency.

The amendment was read and was adopted.

Senator Jones offered the following amendment to the bill:

Floor Amendment No. 2

Amend C.S.S.B. 1355 by changing the period on line 29, page 2, at the end of Article I, Section 13(a) to a semicolon and adding the following:

provided, however, that no property of the State other than the project financed or the real property conveyed under subsection (d) of this section may serve as security for the bonds unless the legislature so provides.

The amendment was read and was adopted.

Senator Jones offered the following amendment to the bill:

Floor Amendment No. 3

Amend C.S.S.B. 1355 by adding a new Section 24 of Article I, renumbering the existing Section 24 as Section 25, and renumbering subsequent sections of Article I. The new Section 24 shall read as follows:

SECTION 24. PREFERENCE IN LEASING. For the purposes of Section 6.04 of Article 601b (Vernon's Civil Statutes), property owned by the board shall be considered state-owned space.

The amendment was read and was adopted.

Senator Jones offered the following amendment to the bill:

Floor Amendment No. 4

Amend Committee Substitute for S.B. 1355 by adding SECTION 2 to Article III to read as follows:

SECTION 2. Subsection (a), Section 94.015, Human Resources Code, is amended to read as follows:

"Section 94.015. APPLICATION OF CHAPTER.

(a) This chapter does not apply to:

(1) property over which the federal government maintains partial or complete control;

(2) ~~[or to]~~ property maintained and operated by state-supported institutions of higher education[:]; provided, [H]however, that the commission may enter into agreements with state institutions of higher education concerning the use of blind labor in vending facilities at the institutions[:]; or

(3) property purchased by the state or an agency of the state, property to which title is transferred from one state agency to another, or property control of which is transferred from one state agency to another, if:

(A) at the time of purchase or transfer of title or control, a vending facility is being operated on the property under lease, license or contract; and

(B) prior to the time of purchase or transfer of title or control, the provisions of this chapter were rendered inapplicable to such property by this Section or other law."

The amendment was read and was adopted.

On motion of Senator Jones and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment.

RECORD OF VOTE

Senator Doggett asked to be recorded as voting "Nay" on the passage of the bill to engrossment.

COMMITTEE SUBSTITUTE SENATE BILL 1355 ON THIRD READING

Senator Jones moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that C.S.S.B. 1355 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 3.

Yeas: Blake, Brooks, Brown, Caperton, Edwards, Farabee, Glasgow, Harris, Henderson, Howard, Jones, Kothmann, Leedom, Lyon, Mauzy, McFarland, Montford, Parker, Parmer, Santiesteban, Sarpalius, Sharp, Sims, Traeger, Truan, Uribe, Whitmire, Williams.

Nays: Doggett, Vale, Washington.

The bill was read third time and was passed by the following vote: Yeas 28, Nays 3. (Same as previous roll call)

MESSAGE FROM THE HOUSE

House Chamber
May 16, 1983

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

All necessary rules suspended and the Conference Committee Report on S.B. 612 adopted by a record vote of 138 Ayes, 0 Nays and 1 Present-not voting.

All necessary rules suspended, and the House concurred in Senate amendments to H.B. 962 by a record vote of 134 Ayes, 0 Nays, and 1 Present-not voting.

All necessary rules suspended, and the House concurred in Senate amendments to H.B. 410 by a record vote of 133 Ayes, 0 Nays, 1 Present-not voting.

H.B. 158, Relating to the administration and financing of a program to provide representation by counsel and transcription services for indigent defendants in criminal cases.

H.B. 1178, Relating to presentence investigations and reports in criminal cases.

H.B. 1180, Relating to the authority of the State Purchasing and General Services Commission to use competitive sealed proposal method in making certain open market purchases and in leasing space from a private source.

H.B. 1511, Relating to the regulation of bees, beekeepers, and honey.

H.B. 1517, Relating to the duty of a county to provide physical facilities, equipment, and utilities for offices of the Texas Adult Probation Commission.

H.B. 1555, Relating to eligibility for unemployment compensation benefits for certain students.

H.B. 1792, Relating to the administration of public employee benefit programs.

H.B. 2008, Relating to revising the penal provisions relating to the offenses of rape, aggravated rape, sexual abuse, and aggravated sexual abuse as a single offense of sexual assault.

H.J.R. 72, Proposing a constitutional amendment authorizing the issuance of general obligation bonds for financing the construction of storage facilities for agricultural products.

H.B. 411, Relating to the use of unclaimed funds received under a court order from a probationer for compensation to victims of crime.

H.B. 594, Relating to certification requirements for aircraft crash and rescue fire fighters.

H.B. 1401, Relating to a refund made to an employer for unemployment compensation benefits paid to a disqualified employee.

H.B. 1428, Relating to the listing of a leasehold or other possessory interest in exempt property.

H.B. 1536, Relating to the creation, administration, and operation of the fire department emergency program under jurisdiction of the fire department emergency board.

H.B. 1550, Relating to access by institutions of higher education to police records of applicants for employment.

H.B. 1956, Relating to the sale of certain mixtures of gasoline and alcohol.

H.B. 1964, Relating to the reservation of minerals by the state and other conditions for the sale, lease, and prospect of state land.

H.B. 2045, Relating to the punishment for the offense of cruelty to animals.

S.C.R. 6, Creating a committee to designate a Texas State Artist.

S.C.R. 38, Granting H. H. Becker permission to sue the State of Texas and the State Department of Highways and Public Transportation.

S.C.R. 58, Urging the Department of Human Resources to provide by contract for the Attorney General to assume operation of the child support enforcement program.

S.C.R. 97, In memory of Mr. Joe Munoz.

H.C.R. 60, Granting Arbra Johnson and Pearl Johnson permission to sue the State.

H.C.R. 99, Granting Mission Insurance Company permission to sue the State.

H.C.R. 100, Granting Mrs. Warthell Browne Iles permission to sue the State.

H.C.R. 105, Accepting a plaque from the Austin Lawyer's Wives Club to be placed on the Bicentennial granite star on the Capitol grounds.

H.C.R. 117, Requesting the governing boards of the Teacher Retirement System, Employees Retirement System, Permanent School Fund, and Permanent University Fund to conduct a review of system personnel policies and staffing requirements.

H.C.R. 130, Requesting Congress to prevent certain EPA actions.

H.C.R. 147, Granting William Kenon and George Purvis permission to sue the State.

H.C.R. 152, Inviting the Right Honorable George C. Price, Prime Minister of Belize, to address a joint session.

H.C.R. 159, Granting Speedman Oil Company permission to sue the State of Texas and the General Land Office.

H.C.R. 162, Declaring that federal and state nutrition programs should be protected from further budget cuts.

H.C.R. 165, Granting Mark Homes, Inc., permission to sue the State of Texas and the Texas Alcoholic Beverage Commission.

H.C.R. 173, Granting Gloria Garcia permission to sue the State of Texas and the Alcoholic Beverage Commission.

H.C.R. 174, Granting Hector Galvan permission to sue the State of Texas and the Department of Public Safety.

H.C.R. 190, Accepting a plaque from the Dogwood Trails Board for placement on the Capitol grounds.

H.C.R. 215, Designating May as American Airlines Month.

H.C.R. 239, Congratulating Becky Brooks, president-elect of TSTA.

H.C.R. 242, Endorsing and encouraging the State Board of Education to provide American Sign Language classes for credit to Texas students.

H.C.R. 245, Honoring Ted Flores.

S.B. 38, Relating to the meaning of "qualified voter" for the purpose of responding to a challenge of a voter at a polling place.

S.B. 59, Relating to registration by manufacturers of food and distributors of drugs, to powers and duties of the Texas Department of Health and its commissioner; creating offenses and providing penalties.

S.B. 91, Relating to appointment of regents of North Texas State University.

S.B. 109, Relating to the powers and duties of cities and counties and the Texas Board of Health in public health matters; providing for the establishment

of public health districts, local health departments and public health regions. (With amendment)

S.B. 162, Relating to the transfer of a prisoner between this state and another state if the prisoner is required to testify in a criminal action.

S.B. 274, Relating to the authority of the Texas Department of Health to provide funds by grant or contract for the purchase of services, supplies, and equipment for public health purposes.

S.B. 280, Relating to an election by a retiree under the Judicial Retirement System of Texas to be a judicial officer.

S.B. 284, Relating to the issuance of identification cards to disabled persons for use in parked vehicles.

S.B. 335, Relating to criminal complaints for parking offenses.

S.B. 353, Relating to the regulation of certain activities concerning fire extinguishers, fixed fire extinguisher systems, and fire detection and fire alarm devices and systems.

S.B. 379, Relating to the construction and financing of certain facilities as part of parking stations in certain counties.

S.B. 387, Relating to the chief executive officer of and the presidents of North Texas State University and of the Texas College of Osteopathic Medicine. (With amendment)

S.B. 436, Relating to regulation of landscape architects and to enforcement powers of the Texas Board of Architectural Examiners (With amendment)

S.B. 471, Amending the Hospital Authority Act to provide an alternate method of selecting members of the Board of Directors of a Hospital Authority created under said act; permitting a reduction of the number of directors and regulation of terms. (With amendment)

S.B. 541, Relating to the qualification for a direct payment permit under the Limited Sales, Excise, and Use Tax Act.

S.B. 544, Relating to the deposit of certain money to the credit of the General Revenue Fund and to refunds of money received or collected by a state agency or department by reason of a mistake of fact or law.

S.B. 579, Relating to the regulation and licensing of migrant labor housing facilities; authorizing certain fees; providing hearing and enforcement procedures and penalties.

S.B. 613, Relating to extensions of time in which to file a petition for discretionary review.

S.B. 732, Relating to election of directors of municipal utility districts.

S.B. 781, Relating to the magistrates appointed by the judges of the district courts of Dallas County that give preference to criminal cases and by the judges of the criminal district courts of Dallas County.

S.B. 786, Relating to the creation of a sheriff's department civil service system in certain counties.

S.B. 967, Relating to certain requirements imposed on foreign insurance corporations seeking to conduct insurance business in this state.

S.B. 971, Relating to an increase in the student union fee at The University of Texas at Arlington.

S.B. 973, Relating to service credit eligibility and administrative and application procedures in the Employees Retirement System of Texas. (As substituted)

S.B. 996, Relating to the maximum liability of a title insurance company.

S.B. 1018, Relating to requiring permits for certain drilled or mined shafts. (As substituted)

S.B. 1020, Relating to the participation of members in the Texas Catastrophe Property Insurance Association.

S.B. 1029, Relating to the creation and establishment of a conservation and reclamation district, known as San Jacinto Place Municipal Utility District No. 1.

S.B. 1030, Relating to the creation and establishment of a conservation and reclamation district, known as San Jacinto Place Municipal Utility District No. 2. (With amendment)

S.B. 1031, Relating to the creation and establishment of a conservation and reclamation district, known as San Jacinto Place Municipal Utility District No. 3.

S.B. 1032, Relating to the creation and establishment of a conservation and reclamation district, known as San Jacinto Place Municipal Utility District No. 4.

S.B. 1064, Relating to the prevention, reporting, and control of communicable diseases and to certain powers and duties of the Texas Board of Health, the Commissioner of Health, and the Texas Department of Health.

S.B. 1096, Relating to refunding bonds of school districts.

S.B. 1198, Relating to waiver of benefits from the Employees Retirement System of Texas.

S.B. 1207, Relating to vacancies on the board of trustees of an independent school district.

S.B. 1222, Relating to the regulation of the sale of eggs and to expenses for out-of-state inspections.

S.B. 1269, Relating to creation of the Buffalo Lake Water District and to its directors, personnel, administration, powers and duties, operations, and financing. (With amendments)

S.B. 1270, Relating to the name and the powers and duties of the Greater Texoma Utility Authority, as renamed; providing for validation of certain contracts and bonds. (With amendments)

S.B. 1275, Relating to the election of members of the Board of Directors of Palo Pinto County Hospital District; authorizing the board to make loans and prescribing use of money from the loans.

S.B. 1285, Relating to the creation, judges, jurisdiction, powers and duties, personnel, facilities, and practice and procedure of the County Court at Law of Liberty County.

H.B. 21, Relating to disruption of classes.

H.B. 179, Relating to rules adversely affecting small businesses.

H.B. 500, Relating to the appointment of persons to serve on the Texas Department of Mental Health and Mental Retardation Review Board which determines manifest dangerousness.

H.B. 775, Relating to the time period for filing bonds or notices, affidavits, or deposits in lieu of bonds in accelerated appeals.

H.B. 882, Relating to solicitations for charitable organizations.

H.B. 895, Relating to the withholding of names drawn for jury service.

H.B. 908, Relating to the identification of county-owned motor vehicles and heavy equipment.

H.B. 949, Relating to the powers of the board of trustees of Pan American University.

H.B. 1061, Relating to the collection of information about certain persons by the Bureau of Identification and Records.

H.B. 1100, Relating to branch offices for absentee voting in certain counties.

H.B. 1106, Relating to the expenses of the official court reporter for the 155th Judicial District.

H.B. 1108, Relating to the vacation time of jail personnel of certain county jails.

H.B. 1118, Relating to notice of the commissioners' award in an eminent domain proceeding.

H.B. 1210, Relating to the creation of the County Court at Law of Rusk County and to the membership of the judge of that court on the county juvenile board.

H.B. 1282, Relating to split payment of and the granting of discounts for the early payment of property taxes.

H.B. 1302, Relating to enforcement of certain penalties for offenses under the Water Code by sheriffs.

H.B. 1322, Relating to the compensation of the county auditor of Cameron County.

H.B. 1367, Relating to the interest incurred by delinquent property taxes.

H.B. 1408, Relating to the authority of water control and improvement districts to borrow money through certain methods.

H.B. 1415, Authorizing the Board of Regents of the University of Texas System to waive its reversionary interest in Mahncke Park and Brackenridge Park Golf Course.

H.B. 1420, Relating to proceedings on offenses regarding certificates of title to motor vehicles.

H.B. 1421, Relating to the deposit in financial institutions of money received by the county tax collector for motor vehicle registration and certificates of title.

H.B. 1451, Relating to the regulation of automotive wrecking and salvage yards in certain counties.

H.B. 1454, Relating to procedures under the Administrative Procedure and Texas Register Act.

H.B. 1481, Relating to the expenditure by certain counties of public or private grant or aid money.

H.B. 1502, Relating to proration of property taxes because of loss of an exemption during a tax year.

H.B. 1575, Relating to extension of the date policies may be issued under the Texas Medical Liability Insurance Underwriting Act.

H.B. 1585, Relating to the jurisdiction, powers, and duties of and the enforcement by the Texas Department of Water Resources.

H.B. 1599, Relating to screening and treatment of newborn infants for certain heritable diseases.

H.B. 1603, Relating to the payment of property taxes pending a taxpayer appeal.

H.B. 1608, Relating to powers of certain partnerships or other combinations of corporations.

H.B. 1655, Relating to the availability of appraisal records and related materials to a property owner.

H.B. 1685, Relating to regulation of the food, drug, health device, and cosmetic salvage brokers and establishments.

H.B. 1704, Relating to the levy and collection of a university center fee at the University of Houston—Downtown College.

H.B. 1706, Relating to rehabilitation services for crippled children.

H.B. 1710, Authorizing certain investments of Texas insurance companies except those writing life, health and accident insurance.

H.B. 1712, Relating to the reporting of certain traffic accidents.

H.B. 1719, Relating to solid waste management.

H.B. 1733, Relating to the office of county fire marshal and the duties of that office.

H.B. 1831, Relating to the appraisal for ad valorem taxation of property reported to have decreased in value.

H.B. 1858, Relating to the terms of office of directors of general law water districts.

H.B. 1867, Relating to the registration of a securities dealer, agent, or salesman.

H.B. 1875, Relating to a report of the seizure of illicit beverages.

H.B. 1876, Relating to filing the annual report of the Texas Alcoholic Beverage Commission.

H.B. 1933, Relating to appeal of suits affecting the parent-child relationship.

H.B. 1934, Relating to the duties of the judges of certain municipal courts of record.

H.B. 1966, Relating to the operation of vehicles used to transport solid waste; prescribing load limits.

H.B. 1980, Relating to the definition of a motor vehicle.

H.B. 1981, Relating to regulation of private investigators and private security agencies.

H.B. 1986, Relating to the platting and replatting and recording of real estate subdivisions.

H.B. 2013, Relating to the creation of the constitutional office of criminal district attorney of Tyler County, the application of the Professional Prosecutors Act to that criminal district attorney, and the powers of the district attorney.

H.B. 2015, Relating to conversion of certain navigation districts.

H.B. 2016, Relating to contracts made by the board of directors of an appraisal district.

H.B. 2046, Relating to the offense of introduction of an alcoholic beverage, controlled substance, or dangerous drug into a county jail or furnishing of one of those substances to a jail inmate.

H.B. 2066, Relating to airport zoning regulations.

H.B. 2067, Relating to airport zoning regulations.

H.B. 2068, Relating to off-street parking facilities, terminals and facilities of cities over 650,000 population and the issuance and security of revenue bonds therefor.

H.B. 2084, Relating to special provisions for certain eligible cities.

H.B. 2085, Relating to the budget for an appraisal district.

H.B. 2134, Relating to the calculation of the effective tax rate for a taxing unit.

H.B. 2150, Relating to local regulation of alcoholic beverage advertising.

H.B. 2156, Relating to the exemption of state lands from taxation.

H.B. 2188, Relating to supplemental compensation for the district attorney of the 293rd Judicial District.

H.B. 2189, Relating to the composition of the Fourth and Sixth Administrative Judicial Districts.

H.B. 2204, Relating to the identification of certain county motor vehicles.

H.B. 2217, Relating to the authority of the clerk of a district court with original probate jurisdiction.

H.B. 2218, Relating to the powers and duties of parents and managing conservators to manage the estate of a child.

H.B. 2220, Relating to a floating interest rate for certain public securities.

H.B. 2244, Relating to the assignment of justices and judges to the courts of appeals.

H.B. 2261, Relating to appraisal district contracts with an appraisal firm which performs appraisal services for a property owner in an appraisal district.

H.B. 2262, Relating to the distribution of the minutes of meetings of the appraisal district board of directors.

H.B. 2263, Relating to appraisal district audits.

H.B. 2264, Relating to the conduct of salary and benefit surveys by the appraisal district board of directors.

H.B. 2282, Relating to the submission of the tax collector's annual report to the governing body.

H.B. 2284, Relating to prohibiting employment of tax appraisers by taxing units.

H.B. 2285, Relating to the public notice requirements for certain tax rate increases by taxing units.

H.B. 2302, Relating to the jurisdiction of the county courts at law in Cameron County, to the qualifications, practice of law, and compensation of the judge of the County Court at Law of Cameron County, and to the transfer of cases in the courts.

H.B. 2305, Relating to the assessment and collection of taxes by the Lavaca-Navidad River Authority.

H.B. 2322, Relating to creation of a municipal court of record for the city of Marshall.

H.B. 2323, Relating to findings concerning the Clear Creek Watershed Authority, to its authority to levy taxes, and to certain of its water rights.

H.B. 2335, Relating to the directors of the Port O'Connor Municipal Utility District.

H.B. 2348, Relating to the jurisdiction and authority of the county courts at law in Brazoria County.

H.B. 2355, Relating to calculation of an ad valorem tax rate when an error in the preceding year caused the loss of a substantial amount of tax revenue.

H.B. 2365, Relating to the establishment of a juvenile board in Williamson County.

H.B. 2367, Relating to establishment of a juvenile board for Hansford County.

H.B. 2368, Relating to the authority of the Upper Guadalupe River Authority to issue bonds and to exercise the powers and duties under Chapters 51 and 54, Water Code, and to the rights and authority of the Upper Guadalupe River Authority.

H.B. 2370, Relating to the establishment of a juvenile board in Navarro County.

H.B. 2371, Relating to the establishment of a juvenile board in Brazos County.

H.B. 2372, Relating to the establishment of a juvenile board in Cochran County.

H.B. 2379, Relating to the composition of the Juvenile Board of Anderson County.

H.B. 2382, Relating to the creation of municipal courts of record in the city of Austin.

H.B. 2386, Relating to the powers, duties, operations, and financing of the Galveston County Drainage District No. 2.

H.B. 2388, Relating to the conveyance of certain state real property in Jefferson County to the city of Port Arthur.

H.B. 2392, Relating to the appointment of court administrators and masters for certain courts in Jefferson County.

H.B. 2395, Relating to the creation of the County Court at Law of Panola County.

H.B. 2398, Relating to the creation of an offense involving a card or document falsely identifying a person as a law enforcement officer.

H.B. 30, Relating to the Uniform Enforcement of Foreign Judgments Act.

H.B. 42, Relating to small claims court procedure in justice courts.

H.B. 178, Relating to the location of and acquisition of land and facilities by the Texas State Technical Institute.

H.B. 223, Relating to the joinder of offenses occurring in the same criminal episode.

H.B. 224, Relating to the definition of serious bodily injury for purposes of certain criminal laws.

H.B. 310, Relating to the expenditure of the proceeds from airport revenue bonds by certain cities.

H.B. 413, Relating to the authority of a probation office in a judicial district to develop and administer programs for the supervision and rehabilitation of persons in pretrial diversion programs.

H.B. 487, Relating to rules governing solid waste, including hazardous waste and Class I industrial solid waste.

H.B. 576, Relating to the period for which a student may be suspended from school.

H.B. 718, Relating to the class of persons not qualified to vote.

H.B. 725, Relating to certain defenses to charges of failure to maintain financial responsibility.

H.B. 742, Relating to reports by the division heads of the Department of Public Safety regarding the efficiency of its employees.

H.B. 788, Relating to work credit for determining the salary or retirement benefits of a vocational teacher.

H.B. 848, Relating to the authority of the boards of regents of certain institutions of higher education to provide malpractice insurance to veterinary staff members and veterinary students.

H.B. 855, Relating to the discretion of a court to allow certain persons convicted of crimes to serve their sentences during off-work hours or on weekends.

H.B. 956, Relating to certification requirements for law enforcement officers elected under the Texas Constitution.

H.B. 1085, Relating to the creation of the office of budget officer in certain counties.

H.B. 1191, Relating to revision, recodification, and reenactment of substantive and procedural laws concerning the manufacture, distribution, dispensing, possession and delivery of marihuana, controlled substances, and drug paraphernalia.

H.B. 1208, Relating to offenses involving explosive and chemical dispensing weapons and the forfeiture of certain items seized pursuant to an arrest for a weapons violation.

H.B. 1269, Relating to the maximum population for a county election precinct in which voting machines or electronic voting systems are used.

H.B. 1291, Relating to the interception of wire or oral communications.

H.B. 1316, Relating to the notification of certain landowners of agricultural use and openspace appraisal provisions.

H.B. 1372, Relating to exemption of officers, directors, and employees of certain bank holding companies from registration and licensing under the Texas Securities Act.

H.B. 1378, Relating to the construction of community-based facilities for the purpose of providing mental health and mental retardation services.

H.B. 1444, Relating to the assignment of judges by the presiding judges of administrative judicial districts.

H.B. 1473, Relating to the creation or reorganization of certain judicial districts.

H.B. 1701, Relating to the use of external professional investment managers in investing certain state funds.

H.B. 1745, Relating to mandatory joint elections held by political subdivisions and to the use of county election precincts and polling places.

H.B. 1750, Relating to the minimum salary for a firemen, policemen, or member of a sheriff's department.

H.B. 1769, Relating to imposition of a fee by the Texas Department of Water Resources to be used to pay expenses of inspection of waste treatment facilities.

H.B. 1914, Relating to penalties for tampering with oil and gas wells and certain associated equipment and for making certain false reports relating to certain oil and gas wells.

H.B. 1947, Relating to an extension of the jurisdiction of the Texas Youth Council to a person under the age of 21.

H.B. 2076, Relating to certain school district property tax revenues to be used by a junior college district operated by the school district.

H.B. 2087, Relating to the application of the Health Facilities Development Act to certain types of health facilities for adults, and to costs incurred by a health facility.

H.B. 2160, Relating to the pay grade of superintendents in school districts with 3000 or less average daily attendance.

H.B. 2427, Relating to creation, administration, powers, duties, operations, and financing of the Montgomery County Flood Control District.

S.B. 809, Relating to admission of certain students to the Texas School for the Deaf.

H.J.R. 65, Proposing a constitutional amendment relating to the payment of assistance to the surviving dependent parents, brothers, and sisters of certain public servants killed on duty.

H.B. 1760, Relating to evidence admissible at a punishment hearing.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

HOUSE BILL ON FIRST READING

The following bill received from the House was read the first time and referred to the Committee indicated:

H.B. 1191, To Committee on Jurisprudence.

SENATE BILL 41 ON THIRD READING

Senator Mauzy moved to suspend the regular order of business to take up for consideration at this time on its third reading and final passage:

S.B. 41, Relating to required disclosure of financial interests, activities, and gifts by elective county officers and candidates for elective county office; providing standards of conduct; providing a penalty.

The motion prevailed by the following vote: Yeas 25, Nays 6.

Yeas: Blake, Brooks, Brown, Caperton, Doggett, Edwards, Henderson, Kothmann, Leedom, Lyon, Mauzy, McFarland, Montford, Parker, Parmer, Santiesteban, Sarpalius, Sharp, Traeger, Truan, Uribe, Vale, Washington, Whitmire, Williams.

Nays: Farabee, Glasgow, Harris, Howard, Jones, Sims.

The bill was read third time and was finally passed.

RECORD OF VOTES

Senators Farabee, Howard, Jones, Glasgow, Montford, Sarpalius, Sharp and Williams asked to be recorded as voting "Nay" on the final passage of the bill.

COMMITTEE SUBSTITUTE SENATE BILL 715 ON SECOND READING

On motion of Senator Glasgow and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 715, Relating to the classification of the controlled substance methaqualone for the purposes of schedules under the Texas Controlled Substances Act.

The bill was read second time and was passed to engrossment.

COMMITTEE SUBSTITUTE SENATE BILL 715 ON THIRD READING

Senator Glasgow moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **C.S.S.B. 715** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The bill was read third time and was passed.

SENATE BILL 689 ON SECOND READING

On motion of Senator Santiesteban and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 689, Relating to the requirements for a bail bondsman license.

The bill was read second time and was passed to engrossment.

SENATE BILL 689 ON THIRD READING

Senator Santiesteban moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that S.B. 689 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The bill was read third time and was passed.

HOUSE BILL 1438 ON SECOND READING

Senator Henderson moved to suspend the regular order of business to take up for consideration at this time:

H.B. 1438, Relating to the removal of certain businesses from treatment as a consumer under the Deceptive Trade Practices-Consumer Protection Act.

The motion prevailed by the following vote: Yeas 22, Nays 8.

Yeas: Brooks, Brown, Farabee, Glasgow, Harris, Henderson, Howard, Jones, Leedom, Lyon, McFarland, Montford, Parker, Parmer, Santiesteban, Sarpalius, Sharp, Sims, Traeger, Uribe, Whitmire, Williams.

Nays: Blake, Caperton, Doggett, Edwards, Kothmann, Mauzy, Truan, Vale.

Absent: Washington.

The bill was read second time.

Senator Lyon offered the following amendment to the bill:

Amend **H.B. 1438** on page 1, line 18 by striking "~~\$1 million~~" and substituting "\$5 million" in lieu thereof.

The amendment was read and was adopted.

On motion of Senator Henderson and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by the following vote: Yeas 20, Nays 11.

Yeas: Brooks, Brown, Farabee, Glasgow, Harris, Henderson, Howard, Jones, Leedom, Lyon, McFarland, Montford, Parmer, Santiesteban, Sarpalius, Sharp, Sims, Traeger, Whitmire, Williams.

Nays: Blake, Caperton, Doggett, Edwards, Kothmann, Mauzy, Parker, Truan, Uribe, Vale, Washington.

RECESS

On motion of Senator Mauzy, the Senate at 12:39 o'clock p.m. took recess until 2:00 o'clock p.m. today.

AFTER RECESS

The Senate met at 2:00 o'clock p.m. and was called to order by the President.

LEAVES OF ABSENCE

Senator Glasgow was granted leave of absence for the remainder of today on account of important business on motion of Senator Farabee.

Senator Truan was granted leave of absence for the remainder of today on account of family illness on motion of Senator Brooks.

HOUSE BILLS AND RESOLUTION ON FIRST READING

The following bills and resolution received from the House were read the first time and referred to the Committee indicated:

- H.C.R. 116**, To Committee on Administration.
- H.B. 1029**, To Committee on Natural Resources.
- H.B. 1794**, To Committee on Intergovernmental Relations.

MESSAGE FROM THE GOVERNOR

The following Message from the Governor was read and was referred to the Committee on State Affairs, Subcommittee on Nominations:

Austin, Texas
May 16, 1983

TO THE SENATE OF THE SIXTY-EIGHTH LEGISLATURE, REGULAR SESSION:

I ask the advice, consent and confirmation of the Senate with respect to the following appointments:

TO BE A MEMBER OF THE STATE BOARD OF VOCATIONAL NURSE EXAMINERS:

For a term to expire September 6, 1987:

JEFF D. SANDERS
1807 Garner Field Road
Uvalde, Texas 78801

(Mr. Sanders is replacing Mr. Benton Luedecke of Cat Spring, Austin County, Texas, whose appointment was returned to this Governor.)

TO BE MEMBERS OF THE TEXAS COLLEGE AND UNIVERSITY SYSTEM COORDINATING BOARD:

For a term to expire August 31, 1987:

LEONARD CHILDRESS
11518 Brighton
Stafford, Texas 77577

(Mr. Childress is replacing Dr. Jarvis E. Miller of Bryan, Brazos County, Texas, whose appointment was returned to this Governor.)

For a term to expire August 31, 1983:

GEORGE BRAMBLETT, JR.
4515 Highland Drive
Dallas, Texas 75205

(Mr. Bramblett is replacing Mr. Charles C. Butt of Corpus Christi, Nueces County, Texas, who resigned.)

Respectfully submitted,

/s/Mark White
Governor of Texas

CONFERENCE COMMITTEE ON HOUSE BILL 1121

Senator Brown called from the President's table for consideration at this time, the request of the House for a Conference Committee to adjust the differences between the two Houses on **H.B. 1121** and moved that the request be granted.

The motion prevailed.

The President asked if there were any motions to instruct the Conference Committee on **H.B. 1121** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Brown, Chairman; Farabee, Harris, Howard and Sims.

SENATE RULE 74a SUSPENDED

On motion of Senator Traeger and by unanimous consent, Senate Rule 74a was suspended as it relates to House amendments to S.B. 973.

SENATE BILL 973 WITH HOUSE AMENDMENT

Senator Traeger called S.B. 973 from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.
Committee Amendment No. 1 - W. Martinez

Substitute the following for S.B. 973:

A BILL TO BE ENTITLED AN ACT

relating to eligibility and payment for service credit and administrative and application procedures in the Employees Retirement System of Texas.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 23.202(a), Title 110B, Revised Statutes, is amended to read as follows:

(a) Except as provided by Section 23.402 of this subtitle and Subsection (b) of this section, any member may establish service credit in the retirement system for membership service not previously established.

SECTION 2. Section 23.302(b), Title 110B, Revised Statutes, is amended to read as follows:

(b) A member eligible to establish military service credit is one who:

(1) does not receive and is not eligible to receive federal retirement payments based on 20 years or more of active federal military duty or its equivalent; ~~and~~

(2) has been released from military duty under conditions not dishonorable; ~~and~~

(3) has credit in the retirement system for membership service performed after the member's date of release from active military duty.

SECTION 3. Section 23.402, Title 110B, Revised Statutes, is amended to read as follows:

Sec. 23.402. CREDIT FOR YEAR IN WHICH ELIGIBLE FOR OFFICE.

(a) A contributing member may establish service credit in the elected class for any calendar year during any part of which:

(1) the member held an office included in that class; or

(2) the member was eligible to take the oath for an office included in that class.

(b) A contributing member may establish credit under this section by depositing with the retirement system in a lump sum a contribution computed as provided by Section 23.404 of this subtitle, plus all membership fees due, plus interest computed at an annual rate of 10 percent from the fiscal year in which the service was performed to the date of deposit.

SECTION 4. Section 23.505(b), Title 110B, Revised Statutes, is amended to read as follows:

(b) A member claiming credit in the employee class for military service not previously established shall, for each month of the service, pay a contribution in an amount equal to the greater of:

(1) the amount that the member contributed [six percent of the member's monthly state compensation] for the first full month of membership service that is after the member's date of release from active military duty and that is credited in the retirement system; or

(2) \$18.

SECTION 5. Section 24.201(b), Title 110B, Revised Statutes, is amended to read as follows:

(b) An application for a disability retirement annuity may not be made:

(1) after the date the disability retirement is to become effective; or

(2) more than 90 days before the date the disability retirement is to become effective.

SECTION 6. Section 25.309(a), Title 110B, Revised Statutes, is amended to read as follows:

(a) The retirement system shall transfer to the retirement annuity reserve fund money as required by Sections 25.314, 25.315, [and] 25.316, and 25.317 of this subtitle.

SECTION 7. Subchapter D, Chapter 25, Title 110B, Revised Statutes, is amended by adding Section 25.317 to read as follows:

Sec. 25.317. TRANSFER OF ASSETS FOR DEATH BENEFIT ANNUITIES. (a) When a member dies who selected or was eligible to select a death benefit plan, or whose beneficiary is eligible to receive an annuity under Section 24.302(b) or 24.304 of this subtitle, the retirement system shall transfer:

(1) from the employees saving fund to the retirement annuity reserve fund, an amount equal to the member's accumulated contributions; and

(2) from the state accumulation fund to the retirement annuity reserve fund, an amount equal to the difference between the total reserve, at present worth reserve value, of the death benefit annuity and the amount credited to the member's individual account as of the day of the member's death.

SECTION 8. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

The amendment was read.

Senator Traeger moved to concur in the House amendment.

The motion prevailed.

SENATE RULE 74a SUSPENDED

On motion of Senator Sarpalius and by unanimous consent, Senate Rule 74a was suspended as it relates to House amendment to **S.B. 1018**.

SENATE BILL 1018 WITH HOUSE AMENDMENT

Senator Sarpalius called **S.B. 1018** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Committee Amendment No. 1 - Buchanan

Substitute the following for **S.B. 1018**:

**A BILL TO BE ENTITLED
AN ACT**

relating to requiring permits for certain drilled or mined shafts; providing penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 28, Water Code, is amended to read as follows:

**CHAPTER 28 - WATER WELLS AND DRILLED OR MINED SHAFTS
SUBCHAPTER A. GENERAL PROVISIONS**

Sec. 28.001. **DEFINITIONS.** In this chapter:

(1) "Department" means the Texas Department of Water Resources.

(2) "Commission" means the Texas Water Commission.

(3) "Executive Director" means the executive director of the Texas Department of Water Resources.

(4) "Board" means the Texas Water Development Board.

(5) "Shaft" means any vertically oriented excavation, whether constructed by drilling or mining techniques, where the depth of the excavation is greater than its diameter, the excavation penetrates into or through the base of the uppermost water-bearing strata, and the primary purpose of the excavation is the transport of workers and materials to and from a destination, at depth, for purposes of geological studies, access to existing and planned subsurface mine workings, or for ventilation of those workings.

(6) "Water" or "water in the state" means groundwater, percolating or otherwise, lakes, bays, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Gulf of Mexico inside the territorial limits of the state, and all other bodies of natural and artificial surface water that is inland or coastal, fresh or salt, and navigable or nonnavigable, and includes the beds and banks of all watercourses and bodies of surface water, that are wholly or partially inside or bordering the state or inside the jurisdiction of the state.

(7) "Surface facilities" means the on-site above-ground appurtenances, structures, equipment, and other fixtures that are or will be used for storage or processing or in conjunction with the shaft operation.

[Sections 28.002 to 28.010 reserved for expansion]

SUBCHAPTER B. WATER WELLS

Sec. 28.011 [28.002]. **UNDERGROUND WATER: REGULATIONS.** The department shall make and enforce rules and regulations for conserving, protecting, preserving, and distributing underground, subterranean, and percolating water located in this state and shall do all other things necessary for these purposes.

Sec. 28.012 [28.003]. **CERTAIN WELLS TO BE PLUGGED OR CASED.** The owner of a water well which encounters salt water or water containing mineral or other substances injurious to vegetation or agriculture shall securely plug or case the well in a manner that will effectively prevent the water from escaping from the stratum in which it is found into another water-bearing stratum or onto the surface of the ground.

Sec. 28.013 [28.004]. **PENALTY.** If the owner of a well that is required to be cased or plugged by this chapter fails or refuses to case or plug the well within the 30-day period following the date of the commission's order to do so or if a person fails to comply with any other order issued by the commission under this chapter within the 30-day period following the date of the order, he is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$10 nor more than \$500. He commits a separate offense each day the failure or refusal continues after the 30-day period.

[Sections 28.014 to 28.020 reserved for expansion]
SUBCHAPTER C. DRILLED OR MINED SHAFTS

Sec. 28.021. PERMIT FROM COMMISSION. No person desiring to drill, excavate, or otherwise construct a shaft as defined in this chapter may commence construction without first obtaining a permit for such work from the commission.

Sec. 28.022. APPLICATION FOR PERMIT. The department shall prescribe forms for application for a permit and shall make the forms available on request without charge.

Sec. 28.023. INFORMATION REQUIRED OF APPLICANT. An applicant shall furnish any information the department considers necessary to discharge its duties under this chapter and the rules of the board.

Sec. 28.024. APPLICATION FEE. With each application for a shaft permit, the department shall collect a fee, as set by the executive director, to reasonably offset the costs to the department for processing the application. The fee may not be less than \$10,000.

Sec. 28.025. LETTER FROM RAILROAD COMMISSION. A person making application to the department for a shaft permit shall submit with the application a letter from the railroad commission stating that such shaft construction will not endanger or injure any oil or gas formation or significantly limit the potential for future recovery of or exploration for oil or gas.

Sec. 28.026. INSPECTION OF SHAFT LOCATION. On receiving an application for a permit, the executive director shall have an inspection made of the location of the proposed shaft to determine the local conditions and probable effect of the shaft on water in the state and shall determine the requirements for setting of casing, liners, and seals as provided in Sections 28.030, 28.036, and 28.037 of this chapter.

Sec. 28.027. RECOMMENDATIONS FROM OTHER AGENCIES. The executive director shall submit to such state agencies and other persons that the board may designate copies of every application received in proper form. These agencies, persons, and divisions may make recommendations to the commission concerning any aspect of the application and shall have reasonable time to do so as the board may prescribe.

Sec. 28.028. HEARING ON PERMIT APPLICATION. (a) The commission shall hold an adjudicatory hearing on the application.

(b) The board by rule shall provide for giving notice of a public hearing on a permit application. The rules for notice shall include provisions for giving notice to local governments and interested persons.

(c) The hearing required in Subsection (a) of this section shall be conducted in accordance with rules for contested cases under the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes). Any person, corporation, partnership, association, local government, government agency, or other entity shall be allowed to participate in a hearing as a party under this section upon a showing of sufficient interest or of an ability to contribute to the resolution of relevant issues.

Sec. 28.029. DELEGATION OF HEARING POWERS. (a) The commission may authorize the chief hearing examiner to call and hold hearings on any subject on which the commission may hold a hearing.

(b) The commission may also authorize the chief hearing examiner to delegate to one or more hearing examiners the authority to hold any hearing called by him.

(c) At any hearing called by the chief hearing examiner, he or the person delegated the authority by him to hold the hearing is empowered to administer oaths and receive evidence.

(d) The individual or individuals holding a hearing under the authority of this section shall report the hearing in the manner prescribed by the commission.

Sec. 28.030. RULES, ETC. (a) The board shall adopt rules reasonably required for the performance of the powers, duties, and functions of the department under this chapter.

(b) Such rules shall be published as proposed rules, as prescribed by the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes), no later than 120 days after the enactment of this section and shall provide reasonable time for the board to receive comments and recommendations from interested agencies and the public before adoption by the board.

(c) No shaft permit shall be issued by the commission pursuant to this chapter nor shall a permit hearing be held on a shaft application until the board has adopted rules for the issuance of such shaft permit.

(d) The department or commission may refuse to accept a shaft permit application or hold a shaft permit application hearing if the planned siting of the shaft is the subject of litigation.

Sec. 28.031. ISSUANCE OF PERMIT. (a) The commission may grant an application in whole or part and may issue the shaft permit if it finds:

(1) that the use or installation of the shaft is in the public interest, and that after consideration of all siting alternatives there is a public need for construction of the shaft at the location for which the application is made;

(2) that no existing rights, including but not limited to, mineral rights and water rights, will be impaired;

(3) that, with proper safeguards, both ground and surface water can be adequately protected from pollution; and

(4) that the applicant has made a satisfactory showing of financial responsibility if required by Subsection (b) of Section 28.053 of this chapter.

(b) In the permit the commission shall impose terms and conditions reasonably necessary to protect all water from pollution, including the necessary casing, liners, seals and surface facilities.

(c) In the permit, the commission shall impose terms and conditions for final closure of surface facilities and plugging and sealing of the shaft reasonably necessary to protect all water penetrated from pollution.

Sec. 28.032. COPIES OF PERMIT; FILING REQUIREMENTS. (a) The department shall furnish the railroad commission with a copy of each shaft permit the commission issues.

(b) Before beginning shaft construction, a person receiving a shaft permit shall file a copy of the permit with the commissioners court of the county in which the shaft is to be located.

Sec. 28.033. RECORD OF STRATA. (a) The commission shall require a person applying for a shaft permit to drill or have drilled a test hole on center or offset to the shaft and provide the following to the department and the railroad commission in the application:

(1) a description of the lithology into or through the lower confining strata;

(2) results of rock testing;

(3) geophysical logs; and

(4) other information that may be required by the department.

(b) The commission shall require a person receiving a shaft permit to keep and furnish to the department and the railroad commission a complete and accurate record of the depth, thickness, and character of the different strata or rock units penetrated in constructing the shaft.

Sec. 28.034. GEOPHYSICAL AND DRILLING LOG. If the shaft is to be constructed over, around, or within 2,000 feet of an existing drilled borehole or boreholes, the commission shall require the applicant for a shaft permit to furnish

such geophysical logs as may be required by the department, including electric logs, and the drilling log and well completion record of all existing boreholes to the department, along with a complete and accurate core data record of the depth, thickness, and character of the different strata or rock units penetrated as a part of the shaft application.

Sec. 28.035. SEISMIC REFLECTION SURVEY. The department shall require as a part of any shaft application a seismic reflection survey and velocity control data conforming, at minimum, to specifications established by the department in the rules provided for in Subsection (a) of Section 28.030 of this chapter.

Sec. 28.036. CASING, LINER, AND SEAL REQUIREMENTS. (a) The casing, liners, and seal(s) shall be set at the depth, with the materials, and in the manner required by the commission.

(b) The permittee shall provide records, as required by the executive director, to indicate compliance with Subsection (a) of this section.

Sec. 28.037. FACTORS IN SETTING CASING, LINER, AND SEAL REQUIREMENTS. Before setting the casing, liner, and seal requirements, the commission shall consider:

(1) known geological and hydrological conditions and relationships;

(2) foreseeable future economic development in the area; and

(3) foreseeable future demand for the use of fresh water in the locality.

Sec. 28.038. ENVIRONMENTAL REPORT. If an environmental report, environmental assessment, or environmental impact statement of any kind that includes an analysis of the environmental impacts of the shaft construction or operation is required by any federal or state agency before approval to construct the shaft, the environmental document, along with evidence of the needed approvals that have been granted, must be submitted to the department as part of the shaft permit application, and the department shall make the environmental document available for public review and comment for a period of not less than 30 days before the application for the shaft permit is considered.

[Sections 28.039 to 28.050 reserved for expansion]

SUBCHAPTER D. COMMISSION AUTHORITY

Sec. 28.051. POWER TO ENTER PROPERTY. Members of the commission, employees and agents of the commission and department, and authorized agents or employees of local governments may enter public or private property at any time to inspect and investigate conditions relating to shaft activities or to monitor compliance with a rule, permit, or other order of the commission, board, or department. Members, employees, or agents acting under the authority of this section who enter an establishment on public or private property shall observe the establishment's safety, internal security, and fire protection rules.

Sec. 28.052. POWER TO EXAMINE RECORDS. Members of the commission, employees and agents of the commission and department, and authorized agents or employees of local governments may examine and copy those records or memoranda of a shaft permittee or his contractors they are investigating or monitoring as provided by Section 28.051 of this chapter that relate to the construction and operation of a shaft or any other records required to be maintained by law.

Sec. 28.053. FINANCIAL RESPONSIBILITY. (a) The commission may require in a shaft permit that the permittee reimburse the department for reasonable costs of monitoring and on-site, full-time surveillance to determine compliance with a rule, permit, or other order of the board or department.

(b) A person to whom a shaft permit is issued may be required by the commission to maintain a performance bond or other form of financial security

to ensure payment of costs that may become due in accord with Subsection (a) of this section or to ensure that an abandoned shaft is safely and properly sealed and plugged.

[Sections 28.054 to 28.060 reserved for expansion]

SUBCHAPTER E. ENFORCEMENT

Sec. 28.061. CIVIL PENALTY. (a) A person who violates any provision of this chapter, any rule of the department or commission made under this chapter, or any term, condition, or provision of a permit issued under this chapter shall be subject to a civil penalty in a sum not exceeding \$10,000 for each day of noncompliance and for each act of noncompliance.

(b) The action may be brought either in the county in which the defendant resides or in the county in which the violation or threat of violation occurs.

Sec. 28.062. INJUNCTION, ETC. (a) The executive director may enforce this chapter, any valid rule made under this chapter, or any term, condition, or provision of a permit issued by the commission under this chapter by injunction or other appropriate remedy. The suit shall be brought either in the county in which the defendant resides or in the county in which the violation or threat of violation occurs.

(b) In any suit brought to enjoin a violation or threat of violation of this chapter or any rule, permit, or order of the commission, board, or department, the court may grant the department, without bond or other undertaking, any prohibitory or mandatory injunction the facts may warrant, including temporary restraining orders, after notice and hearing, temporary injunctions, and permanent injunctions.

Sec. 28.063. PROCEDURE. (a) At the request of the executive director, the attorney general shall institute and conduct a suit in the name of the State of Texas for injunctive relief or to recover the civil penalty or for both the injunctive relief and civil penalty, authorized in Sections 28.061 and 28.062 of this chapter.

(b) Any party to a suit may appeal from a final judgment as in other civil cases.

Sec. 28.064. EFFECT OF PERMIT ON CIVIL LIABILITY. The fact that a person has a permit issued under this chapter does not relieve him from any civil liability.

Sec. 28.065. CRIMINAL PENALTIES. (a) A person who knowingly or intentionally violates this chapter, a rule of the board or commission, or a term, condition, or provision of a permit issued under this chapter is subject to a fine of not more than \$10,000 for each violation and for each day of violation.

(b) Venue for prosecution of an alleged violation is in either the county in which the defendant resides or in which the violation occurs.

Sec. 28.066. ENFORCEMENT BY LOCAL GOVERNMENTS AND OTHERS. (a) If a local government is denied access to property or records as provided in this Act, the local government may bring suit in a district court in the county in which the violation occurs for an appropriate order to obtain access to the property or records or to recover civil penalties or for both an order and the penalties provided by Subsection (b) of this section. Civil penalties recovered in a suit under this subsection shall be paid to the local government.

(b) A permittee who denies access to property or records to a local government as provided by this Act is liable to a civil penalty of not less than \$100 and not more than \$1,000 for each violation.

(c) A local government or any person may file a written complaint with the department and request an investigation of an alleged violation by a permittee under this Act. The department shall reply to the complaint in writing within 30 days after receipt of the complaint and shall provide a copy of any investigation reports relevant to the complaint together with a determination of whether or not the alleged violation was committed.

(d) If the department does not have a suit brought in court under this Act within 60 days after the written complaint is filed under Subsection (c) of this section, the local government or person may bring suit in the appropriate court in the county in which the alleged violation occurred or is about to occur in the manner provided for suits by the department under Sections 28.061 and 28.062 of this Act. Penalties collected in a suit under this subsection shall be paid to the state. In a suit brought by a local government or person under this subsection, the court shall include in any final judgment in favor of the local government or person an award to cover reasonable court costs and attorney's fees.

SECTION 2. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

The amendment was read.

Senator Sarpalius moved to concur in the House amendment.

The motion prevailed by the following vote: Yeas 23, Nays 1.

Nays: Washington.

Absent: Caperton, Harris, Leedom, McFarland, Uribe.

Absent-excused: Glasgow, Truan.

COMMITTEE SUBSTITUTE SENATE BILL 784 ON SECOND READING

On motion of Senator Traeger and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 784, Relating to the creation or reorganization of certain judicial districts, supplemental compensation of certain district judges, exchange of benches by certain district judges, creation of the office of district attorney in certain judicial districts, and duties and election of certain district attorneys.

The bill was read second time.

Senator Washington offered the following amendment to the bill:

Floor Amendment No. 1

Amend **C.S.S.B. 784** on page 3, by renumbering Section 4 as Section 6 and by striking lines 8 and 9 and substituting the following:

SECTION 3. Chapter 156, Acts of the 40th Legislature, Regular Session, 1927 (Article 200a, Vernon's Texas Civil Statutes), is amended by adding Section 5f to read as follows:

Sec. 5f. Notwithstanding any other provision of this Act, neither the chief justice nor the presiding judge of the administrative judicial district in which Harris County is located may assign a judge to a court in Harris County if the regular district judge is present or trying cases.

SECTION 4. This Act does not affect the assignment of a judge in a case to which the judge was assigned under Chapter 156, Acts of the 40th Legislature, Regular Session, 1927 (Article 200a, Vernon's Texas Civil Statutes), before amendment by this Act.

SECTION 5. (a) Sections 1, 3, and 4 of this Act take effect September 1, 1983.

The amendment was read and was adopted.

On motion of Senator Traeger and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment.

COMMITTEE SUBSTITUTE SENATE BILL 784 ON THIRD READING

Senator Traeger moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that C.S.S.B. 784 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 26, Nays 1.

Nays: Washington.

Absent: Harris, Uribe.

Absent-excused: Glasgow, Truan.

The bill was read third time and was passed.

MESSAGE FROM THE HOUSE

House Chamber
May 16, 1983

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

S.C.R. 103, Saluting the Texas Senior Games for Fun and Fitness, the Texas Department on Aging, the Governor's Commission for Physical Fitness, ...and Congratulating the participants in the Games.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

COMMITTEE SUBSTITUTE SENATE BILL 1184 ON SECOND READING

On motion of Senator Caperton and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 1184, Relating to recovery of actual costs and attorney's fees by the attorney general in a charitable trust suit and to the venue of a charitable trust suit.

The bill was read second time and was passed to engrossment.

COMMITTEE SUBSTITUTE SENATE BILL 1184 ON THIRD READING

Senator Caperton moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that C.S.S.B. 1184 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 26, Nays 1.

Nays: Washington.

Absent: Harris, Uribe.

Absent-excused: Glasgow, Truan.

The bill was read third time and was passed by the following vote: Yeas 27, Nays 0.

Absent: Harris, Uribe.

Absent-excused: Glasgow, Truan.

SENATE BILL 1185 ON SECOND READING

On motion of Senator Caperton and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 1185, Relating to fees to which the attorney general is entitled.

The bill was read second time and was passed to engrossment.

SENATE BILL 1185 ON THIRD READING

Senator Caperton moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **S.B. 1185** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 27, Nays 1.

Nays: Washington.

Absent: Uribe.

Absent-excused: Glasgow, Truan.

The bill was read third time and was passed by the following vote: Yeas 28, Nays 0.

Absent: Uribe.

Absent-excused: Glasgow, Truan.

SENATE BILL 1094 ON SECOND READING

On motion of Senator Harris and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 1094, Relating to unearned premium reserves, policy limits, guaranty fund provisions, and licensing of agents for companies organized under Chapters 11, 12, 13, 14 and 22 of the Texas Insurance Code; and declaring an emergency.

The bill was read second time.

Senator Harris offered the following committee amendment to the bill:

Committee Amendment No. 1

Amend **S.B. 1094** on page 1, line 4 by deleting "11,".

The committee amendment was read and was adopted.

RECORD OF VOTE

Senator Jones asked to be recorded as voting "Nay" on the adoption of the amendment.

Senator Harris offered the following committee amendment to the bill:

Committee Amendment No. 2

Amend **S.B. 1094** on page 4, line 21 by deleting "one [two]" and inserting in lieu thereof "two" and by deleting "(1%) [(2%)]" and inserting in lieu thereof "(2%)".

The committee amendment was read and was adopted.

RECORD OF VOTE

Senator Jones asked to be recorded as voting "Nay" on the adoption of the amendment.

Senator Harris offered the following committee amendment to the bill:

Committee Amendment No. 3

Amend S.B. 1094 on page 15, line 19 by deleting "of \$10.00" and inserting in lieu thereof the following:

"not to exceed \$20.00"

The committee amendment was read and was adopted.

Senator Harris offered the following committee amendment to the bill:

Committee Amendment No. 4

Amend S.B. 1094 by deleting after the word "that" on line 13 on page 1 through the word "1985" on line 21, page 1 and reinserting the language "an unearned premium reserve shall not be required to be maintained during the first policy year."

The committee amendment was read and was adopted.

On motion of Senator Harris and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment.

SENATE BILL 1094 ON THIRD READING

Senator Harris moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that S.B. 1094 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 27, Nays 1.

Nays: Washington.

Absent: Uribe.

Absent-excused: Glasgow, Truan.

The bill was read third time and was passed.

MOTION TO PLACE SENATE BILL 1158 ON SECOND READING

Senator Whitmire moved to suspend the regular order of business to take up for consideration at this time:

S.B. 1158, Relating to certain loans made by an industrial development corporation.

The motion was lost by the following vote: Yeas 18, Nays 10. (Not receiving two-thirds vote of the Members present)

Yeas: Brooks, Caperton, Edwards, Kothmann, Lyon, Mauzy, McFarland, Montford, Parker, Parmer, Santiesteban, Sarpalius, Sharp, Traeger, Uribe, Vale, Whitmire, Williams.

Nays: Blake, Brown, Doggett, Farabee, Harris, Henderson, Howard, Jones, Leedom, Sims.

Absent: Washington.

Absent-excused: Glasgow, Truan.

HOUSE BILL 888 REREFERRED

On motion of Senator Farabee and by unanimous consent, **H.B. 888** was withdrawn from the Committee on Jurisprudence and rereferred to the Committee on State Affairs.

SENATE RULE 103 SUSPENDED

On motion of Senator Farabee and by unanimous consent, Senate Rule 103 was suspended in order that the Committee on State Affairs might consider **H.B. 520** today.

SENATE RULE 103 SUSPENDED

On motion of Senator Santiesteban and by unanimous consent, Senate Rule 103 was suspended in order that the Committee on Natural Resources might consider **H.B. 1279** today.

SENATE RULE 103 SUSPENDED

On motion of Senator Brooks and by unanimous consent, Senate Rule 103 was suspended in order that the Committee on Health and Human Resources might consider **H.B. 1985** today.

MEMORIAL RESOLUTION

S.R. 616 - By Farabee: Memorial resolution for Staley Hawkins.

WELCOME AND CONGRATULATORY RESOLUTIONS

S.R. 614 - By Caperton: Designating May 14, 1983, as "Roy P. Benavidez Day in Texas".

S.R. 617 - By Doggett: Extending congratulations to the FFA team member from Lanier High School.

S.R. 618 - By Brooks: Extending congratulations to the new officers of the Galveston Chapter of the NAACP.

S.R. 619 - By Doggett: Extending best wishes to Odis Havis for a speedy recovery.

S.R. 620 - By Sharp: Recognizing April 11, 1983, as Our Lady of Victory School Day.

S.R. 621 - By Brooks: Extending welcome to Miss Tammy Smith of San Antonio.

S.R. 622 - By Parker: Recognizing the extensive contributions of Dorothy Nell Garren to the City of Port Arthur.

ADJOURNMENT

On motion of Senator Mauzy, the Senate at 3:04 o'clock p.m. adjourned until 10:00 o'clock a.m. tomorrow.

APPENDIX

Signed by Governor
(May 12, 1983)

H.C.R. 235
H.C.R. 234
H.C.R. 196
H.C.R. 193
H.C.R. 187
H.C.R. 186
H.C.R. 178
H.C.R. 156
H.C.R. 139

Sent to Governor
(May 13, 1983)

S.C.R. 79
S.C.R. 96
S.B. 341
S.B. 367
S.B. 501
S.B. 703
S.B. 737
S.B. 761
S.B. 817
S.B. 826
S.B. 1050

(May 16, 1983)

S.C.R. 111
S.C.R. 112
S.B. 98
S.B. 355
S.B. 384 (Again sent)
S.B. 623
S.B. 682
S.B. 1112

SIXTY-NINTH DAY
(Tuesday, May 17, 1983)

The Senate met at 10:00 o'clock a.m., pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Blake, Brooks, Brown, Caperton, Doggett, Edwards, Farabee, Glasgow, Harris, Henderson, Howard, Jones, Kothmann, Leedom, Lyon, Mauzy, McFarland, Montford, Parker, Parmer, Santiesteban, Sarpalius, Sharp, Sims, Traeger, Truan, Uribe, Vale, Washington, Whitmire, Williams.

A quorum was announced present.

The Reverend John Berkley, Memorial United Methodist Church, Austin, offered the invocation as follows: